

HON. WILLIAM FREMMING NIELSEN

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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOV 30 2001

JAMES R. LARSEN, CLERK

DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT SPOKANE

CITY OF SPOKANE, a municipal
corporation,

Plaintiff,

v.

UNITED NATIONAL INSURANCE
COMPANY, a foreign corporation;
LEXINGTON INSURANCE
COMPANY, a foreign corporation; and
GENESIS INSURANCE COMPANY, a
foreign corporation,

Defendants.

No. CS-01-0069-WFN

DEFENDANT LEXINGTON'S
MOTION TO FILE OVERLENGTH
BRIEF ON SUMMARY
JUDGMENT

I. RELIEF REQUESTED

Defendant Lexington Insurance Company ("Lexington") moves the Court for an order under LR 7.1(f) permitting the filing of a memorandum in support of a motion for summary judgment which exceeds 20 pages.

II. STATEMENT OF FACTS

This is an insurance coverage action involving application of an absolute pollution exclusion. Lexington is filing a motion for summary judgment of dismissal under Federal Civil Procedure 56(c) and LR 56.1. Lexington is filing its

1 memorandum contemporaneously with this motion. The memorandum is 28 pages in
2 length.

3 **III. ISSUE PRESENTED**

4 Should Lexington be allowed leave to file a memorandum of 28 pages to
5 sufficiently address the issues in its motion for summary judgment?

6 **IV. EVIDENCE RELIED UPON**

7 Lexington relies upon the following evidence:

- 8 1. Defendant Lexington Insurance Company's Memorandum in Support of
9 Motion for Summary Judgment Regarding the Absolute Pollution Exclusion; and
10 2. Declaration of Rehman H. Bashey in Support of Motion to File
11 Overlength Brief on Summary Judgment.

12 **V. ARGUMENT**

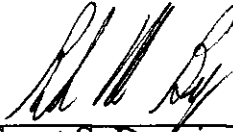
13 Local Rule 7.1(f) provides that: "Memoranda relating to motions for summary
14 judgment or other dispositive motions shall not exceed twenty (20) pages without
15 prior approval of the court." Waiver of page limitations may be granted upon motion
16 demonstrating "good cause." LR 7.1(f). As set forth more fully in the attached
17 Declaration of Rehman H. Bashey, there are numerous regulations, exhibits, and cases
18 which are relevant to this motion and merit detailed discussion in reviewing the
19 subject pollution exclusion.

20 **VI. PROPOSED ORDER**

21 A proposed order is attached.
22
23
24
25
26

29th
DATED this 28th day of November, 2001.

LANE POWELL SPEARS LUBERSKY LLP

By 

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AFFIDAVIT OF SERVICE

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

Cheryl Lindsey Seelhoff, being first duly sworn upon oath, declares as follows:

On November 29, 2001, I caused a copy of Defendant Lexington's Motion to
File Overlength Brief on Summary Judgment to be hand delivered by ABC Messenger
Service to the following addresses:

Affidavit of Service --1

019369.0170/875190.1

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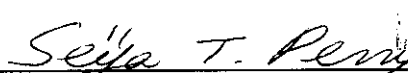
16 I declare under penalty of perjury that the foregoing statements are true and
17 correct.

18 Signed at Seattle, Washington this 29th day of November 2001.
19

20 
21 Cheryl Lindsey Seelhoff

22 Subscribed to and sworn before me this 29th day of November, 2001.



27  SEIJA T. PERRY
28 Notary Public in and for the State of
29 Washington, residing at Federal Way
30 My Commission expires: 5-15-04

Affidavit of Service --2

019369.0170/875190.1

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